

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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CATHERINE HOGAN,

Plaintiff,

ORDER ADOPTING REPORT
AND RECOMMENDATION
05-CV-5342 (JS)(ARL)

- against -

J.P. MORGAN CHASE BANK

Defendant.

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APPEARANCES:

For Plaintiff: Andrew James Schatkin, Esq.
350 Jericho Turnpike
Jericho, New York 11753

For Defendant: Frederic L. Lieberman, Esq.
J.P. Morgan Chase Legal Department
1 Chase Manhattan Plaza, 26th Floor
New York, NY 10081

SEYBERT, District Judge:

On November 14, 2005, Catherine Hogan ("Plaintiff") filed a Complaint against J.P. Morgan Chase Bank ("Defendant") alleging a violation of the Age Discrimination in Employment Act, 29 § U.S.C. 621-634 (the "ADEA"). On November 19, 2007, Plaintiff filed a motion to amend her Complaint to add additional language concerning her age discrimination claim, add claims for intentional infliction of emotional distress and for a violation of 42 U.S.C. § 1981, and add Dennis Chuang as a defendant. This Court referred Plaintiff's motion to Magistrate Judge Arlene R. Lindsay to report and recommend whether Plaintiff's amendment should be permitted.

On June 26, 2008, Magistrate Judge Lindsay recommended granting Plaintiff's motion in part and denying it in part.

Specifically, Magistrate Judge Lindsay recommended allowing the proposed additional language concerning Plaintiff's age discrimination claim, denying the proposed 1981 claim because Section 1981 does not provide relief for a claim based on age discrimination, denying the addition of Dennis Chuang because an ADEA claim cannot lie against an individual, and denying the intentional infliction of emotional distress claim as time-barred and for failure to state a tenable claim.

Pursuant to Rule 72 of the Federal Rules of Civil Procedure, any objections to the Report were to be filed with the Clerk of the Court within ten days of service of the Report. The time for filing objections has expired and no Party has objected. Accordingly, all objections are hereby deemed to have been waived. The Court ADOPTS the Report in its entirety and GRANTS Plaintiff's motion to amend the Complaint to add additional language concerning the age discrimination claim, but DENIES Plaintiff's motion to amend the Complaint to add claims for intentional infliction of emotional distress and for a violation of 42 U.S.C. § 1981, and add Dennis Chuang as a defendant.

Plaintiff is directed to file an Amended Complaint within thirty (30) days of receiving this Order, incorporating Plaintiff's new language concerning her age discrimination claim.

SO ORDERED

/s/ JOANNA SEYBERT
Joanna Seybert, U.S.D.J.

Dated: Central Islip, New York
September 4, 2008